?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

%DATED: 19.09.2018

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

+C.R.P.NPD(MD)No.1781 of 2016

#1.Saroja
2.Jeyaseelan
3.Saravanan
4.Rajeshwari : Petitioners

Vs.

$1.Gurusamy
2.Mangathayammal : Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the District Munsif, Usilampatti to number the unnumbered E.P.No. /2016 in O.S.No.3/1993 on the file of the District Munsif, Usilampatti.

!For Petitioners : Mr.S.Nateshraaja
^For Respondent No.1 : Mr.R.G.Shankar Ganesh
For Respondent No.2 : No appearance

:ORDER

The revision petitioners were shown as defendants in O.S.No.3 of 1993, on the file of the District Munsif Court, Thirumangalam. A compromise was arrived at in the suit. Therefore, a compromise decree was passed on 10.06.1993. It is seen therefrom that decree was passed in favour of the plaintiff against the defendants in respect of the suit property and a decree was passed in favour of the defendants against the plaintiffs in respect of the survey numbers mentioned in Clause No.2 of the decree.

2.Contending that the decree passed in his favour has been contravened, the revision petitioners filed Execution Petition before the District Munsif Court, Usilampatti. The same was returned on the ground that it was barred by limitation. Questioning the same this Civil Revision Petition has been filed.

3.Heard the learned Counsel on either side.

4.As rightly contended by the learned Counsel for the revision

petitioners, from the proviso 3 to Article 136 of the Limitation Act, an application for the enforcement or execution of a decree granting perpetual injunction shall not be subject to any period of limitation. Therefore, the question of the said decree becoming time~barred will not arise. The respondents can contend that they did not disobey the decree or that there was no cause of action for filing the Execution Petition. Therefore, leaving the said contention open, the Civil Revision Petition is allowed. The Registry shall return the original Execution Petition filed by the revision petitioner so that the same can be re~presented before the executing Court.

5.The Civil Revision Petition is allowed, accordingly. No costs.

To
The District Munsif,
Usilampatti.